

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.PADMANABHAN NAIR

WEDNESDAY, THE 11TH APRIL 2007 / 21ST CHAITHRA 1929

MFA.No. 1204 of 2001(A)

IC.43/2000 of ESI COURT, PALAKKAD

APPELLANT - OPPOSITE PARTY:

**THE REGIONAL DIRECTOR, EMPLOYEES
STATE INSURANCE CORPORATION,
NORTH SWARAJ ROUND, THRISSUR - 20.**

BY ADV. SRI.P.SANKARANKUTTY NAIR

RESPONDENT- APPLICANT:

**APOLLO TYRES LIMITED, PERAMBRA P.O.,
THRISSUR DISTRICT.**

**BY ADV. SRI.M.PATHROSE MATTHAI (SR.)
SRI.SAJI VARGHESE
SMT.MARIAM MATHAI**

**THIS MISC. FIRST APPEAL HAVING BEEN FINALLY HEARD ON
ON 11/04/2007, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

K. PADMANABHAN NAIR, J.

=====

M.F.A. NO. 1204 OF 2001

=====

Dated this the 11th day of April, 2007

J U D G M E N T

Heard. Admitted. Advocate Shri Pathrose Mathai took notice for the respondent. The appeal itself is heard and disposed of as agreed to by both parties.

2. The sole question arising for consideration in this appeal is whether the Employees' Insurance Court has got power to grant exemption to an employer from paying interest for the delayed payment of contribution on the ground that the delay has occurred due to the pendency of certain litigations before the High Court. In this particular case there were Original Petitions pending before this Court in the matter of liability to pay contribution and there were orders of stay passed in those cases. So there was delay in remitting the contribution. Subsequently, contribution was paid. The appellant demanded interest. Challenging that order, respondent filed I.C. No.43 of 2000 before the E.I. Court, Palakkad. The E.I. Court held that since the delay in remitting contribution has occurred on account of the stay

orders passed by the High Court in certain Original Petitions, the respondent was not liable to pay any interest. In fact the said issue was considered by this Court in **Regl. Director, ESI Corpn. v. Cannanore S & W. Mills** (2001(3) KLT 393). The Division Bench has held that for the delay on account of the pendency of Original Petitions before the High Court, the E.I. Court can grant exemption in the matter of payment of interest. In view of the aforesaid decision, the issue is answered against the appellant. Hence the appeal is only to be dismissed.

In the result, the appeal is dismissed.

K. PADMANABHAN NAIR, JUDGE.

K. PADMANABHAN NAIR, J.

M.F.A. NO. 1204 OF 2001

J U D G M E N T

9TH APRIL, 2007